

Minutes of the Hurricane City Council meeting held on April 6, 2023, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 4:00 p.m.

Members Present: Mayor Nanette Billings and **Council Members:** Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas

Also Present: City Manager Kaden DeMille, City Attorney Dayton Hall, Police Chief Lynn Excell, Power Superintendent Scott Hughes, Public Works Director Mike Vercimack, Planning Director Stephen Nelson, Street Superintendent Weston Walker, City Engineer Arthur LeBaron, City Recorder Cindy Beteag and Fire Chief Tom Kuhlman.

AGENDA

4:00 p.m. - Work Meeting

1. Discussion regarding impact fees for culinary and secondary irrigation water. - Hurricane City Water Department

Ken Richins reported that the department has been working on the impact fee study with Alpha Engineering for a long time. The secondary irrigation water impact fees cover the new irrigation systems. Glen Carnaham with Alpha Engineering reported that this study resulted in an update of the culinary master plan and a new master plan for the secondary system. He explained that the numbers are based on a $\frac{3}{4}$ inch meter size, and the impact fee analysis works over a ten-year period. The study suggests a revised cost of \$2133.80 for a standard connection. However, they are still collecting data to complete the study. The finalized study will go to a Public Hearing and then to the City Council for formal adoption. Mayor Billings asked if Alpha Engineering would determine the water shares that the City needs. Mr. Carnaham reported that it will be included in the master plan. Councilman Prete clarified the Water District collects the impact fee, and this model divides that fee into culinary and secondary water. The City will receive a portion of the impact fee toward the secondary system. Mr. Richins confirmed Councilman Prete's clarification. He explained that this is allowed as part of the pooling agreement. However, the Water District has not signed off on this yet. Dayton Hall explained a homeowner could agree not to do outside watering with an agreement. Mr. Richins noted that the culinary impact fee is used for main transmission and storage, and the impact fee that goes to the Water District is used to develop and maintain the water source. Mr. Richins reported that the secondary water impact fee only applies to new homes, and collected impact fees must be spent within six years.

2. Report on and discussion regarding a drought contingency plan. - Hurricane City Water Department

Dayton Hall explained that the current agreement states if there is not adequate water, the cities are to come together and agree on how to apportion the water. The agreement states that the District will apportion the remaining water if the Cities cannot produce a plan.

Due to the excessive growth and drought, the District proposed a plan to reduce the level of service to .59-acre feet for new homes. While drafting the plan, it became apparent that a concrete plan needed to be in place. The Water District hired a consultant to create a model comparing demand with supply. Mr. Hall reviewed the different drought stages. The Technical Advisory Committee (TAC), comprised of the Water Managers from each City, has agreed that they do not want to escalate to the next drought level unless there are three consecutive months of the same drought. Ken Richins reported that Hurricane City has a drought contingency plan. Both plans serve a purpose, and he feels agreeing to this drought plan is beneficial. Councilman Prete asked about the pros and cons of a cooperative approach with other cities versus working alone. Mr. Hall explained the downside of not being in line with other communities is the liability it poses to the City. The plan will come before the City Council after approval from the Water Conservancy District.

5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports

Ken Richins reported that the Water Department continues developing the well at Dixie Springs. They are pumping out sand; hopefully, the well will be operational soon. Two new employees are in asbestos training, and a third new hire started on Monday.

Larry Palmer introduced himself as the new Building Official.

Scott Hughes reported that the Power Department continues working on 600 North and the substation. He explained that the power on 600 North is currently being fed through Rocky Mountain Power, and power outages are a risk over the next few weeks. There are two new employees in the department and one open position.

Chief Kuhlman thanked Chief Excell for the Police Department's help in flood preparations. He reported that the Fire District and possibly SWAT will be doing training in the City's building before it is demolished. Mayor Billings reported that Chief Kuhlman has submitted his letter of resignation as of April 22nd.

Chief Excell expressed appreciation for the Fire Department and community support. The annual community communications drill is on April 10th. They are working with the Street Department to place sand in five locations within the City. There are 28,000 sandbags available, and access to more if needed. Quick Dam Kits have been provided to all the department supervisors. The backup generators will be serviced this week, and emergency contracts are in place with Interstate Rock and Gilbert Development. The helicopter the Department of Public Safety designated Southern Utah is available. Two officers with twenty years of service are

retiring this month. He explained that both officers have expressed that they do not want a big event.

Mike Chandler reported that Ash Creek Sewer District is working on several projects. Next week they are cleaning out the cove pump station along Gould's wash on 1580 West. The sewer line on 650 South will be repaired this summer, and several lines throughout town will be upsized to accommodate growth. Work is resuming to repair the potholes on 3000 South. Mr. Chandler explained that the Confluence Park Treatment Plant is designed to produce type one reuse water, which can be used on golf courses, home gardens, fields, lawns, etc. The water from Confluence Park is intended to replace the outdoor water in the Toquerville and LaVerkin pressurized system. He explained the process of indirect and direct potable use.

Dave Houston reported that Scott Freeman has taken over the traffic monitoring system at the airport, and there is an extremely low complaint rate. There were a few incidents over the last few months, a car went through an airport parameter fence, and a plane was pushed off the runway by crosswind.

Mike Vercimack welcomed Larry Palmer and reported that he has been a great addition. The Public Works Department is still busy with development, and the focus is shifting from new development to existing developments.

Weston Walker reported that the Street Department is busy with spraying, drainage complaints, road complaints, and crack sealing.

Councilman Hirschi inquired about the parking by the ball fields. Kaden DeMille reported that the Parks Department is working with Straight Stripes and noted that Darren Barney knows power poles are available at the Power Department.

Fred Resch III reported the City is switching to the new short-term rental program and is in the process of implanting it.

Arthur LeBaron reported that the Engineering Department has advertised for outside help to review plans. Statements of qualifications are due by the end of the month. The department will form a panel to review the proposals and make recommendations to the City Council. The City roadway projects are moving forward. He has been out with Mac Hall and others to look at alternatives for the bike racing venue. There are several good alternatives.

Stephen Nelson reported that the final open house for the Downtown Master Plan is being held next week. The flier from the last open house is online, and they are still accepting comments. He invited the City Council to attend the introductory workshop with the Planning Commission next week. There are two requests for qualifications out for Parks Recreation and Open Space Master Plan and the City Center. They have been working with City Inspect to get the planning

applications online. He noted that the City has been invited to present its enforcement mechanism for short rentals at the next Utah American Planning Conference in May.

Dayton Hall noted that this is the first week under the new policy and reminded the City Council that packets are sent out at 3:00 p.m. on Friday.

Mayor Billings reported that the Copper Rock tour is during the last week of April.

6:00 p.m. - Call to Order

Mayor Nanette Billings welcomed everyone to the meeting.

Prayer & Pledge led by David Hirschi

Introduction of the 2023-2024 Hurricane City Royalty

Mayor Billings introduced the 2023-2024 Hurricane City Royalty. She expressed her gratitude for their participation in the program.

Mayor Billings thanked Stephen Nelson and Fred Resch III for their work on the Downtown Master Plan.

Declaration of any conflicts of interest

None declared.

Public Forum – Comments From Public

Victor Tebbs asked the City Council to start the process of putting in a crosswalk and reducing the speed limit on 400 South and 400 West. He reported that there was a death on the corner not too long ago. A truck is always parked on 400 South, and the oncoming traffic cannot be seen.

Aaron Stout owns lodging businesses in the area. He wants to know the plan for short-term rentals and hotels. He reported that there are three hundred and seventy-five approved nightly rental permits and 4,800 additional units approved. Due to the over-saturation, his business is showing a significant drop in rentals.

CONSENT AGENDA

1. Minutes of the Regular City Council Meeting for March 16, 2023

2. Approval of Memorandum of Understanding regarding participation in a Transparent Billing Grant.
3. Consideration and possible approval of an Amended Final Plat for Hurricane Storage Units Lot 1 located at 132 N Old Highway 91. Hurricane Holdings IA LLC (Kenneth Wong) Applicant. Bush & Gudgell Inc (Gregg Meyers) Agent.

Mayor Billings reviewed each item within the consent agenda.

Doug Heideman motioned to approve the consent agenda, including Staff and JUC comments for item 3. Seconded by Joseph Prete. David Hirschi, Dave Sanders, Kevin Thomas, Doug Heideman, and Joseph Prete – aye. Motion carried unanimously.

OLD BUSINESS

1. Consideration and possible approval of **amendments to the airport lease templates.** - Dave Houston

Larry Weitzman asked the City Council to review his email before approving changes to the airport lease. He noted several sections of the lease that negatively affect tenants and owners. The requirement allowing the City to make owners relocate their property, the insurance waiver of subrogation, and the provision that allows the City to terminate the lease at their disposal are unfair and onerous.

Art Granger asked for clarification of ramp repair and trailer gliders, listed in Paragraph J, Maintenance Repair Utilities and Storage. Paragraph K states that tenants shall occupy the premise and operate at a minimum during normally scheduled business hours. He asked for the definition of normal business hours.

Stephen Lemmon is representing Sand Hollow Aviation. He was under the impression that the lease was finalized. He noted that the lease continually refers to St. George City and would like Hurricane City to develop a lease that pertains exclusively to the Hurricane City Airport. The association has expressed frustration regarding the pollution liability and the requirement for a personal guarantor. The clause within the lease that addresses improvements at the end of the lease term states that the City can assume ownership or extend the lease. Mr. Lemmon feels that the government has no right to take his property.

Steve Young agrees with Mr. Lemmon.

Dayton Hall explained the condemnation paragraph in the proposed lease does not allow the City to condemn a hangar. The ramp repair maintenance pertains to the five feet approaching the hangar door. Tenants are not allowed to park trailers around the hangars. The paragraph

about air pollution states that the tenant is responsible for the air pollution, and they can seek insurance if they choose to. It is not required. The Airport Board recommended that a paragraph be added stating that the owner of an entity signs the lease as a personal guarantee, and this is his recommendation also. He explained that at the end of the twenty-five years, the City can take ownership. This ground lease pertains to a long-term lease at below-market rent. Mr. Hall reported that historically Hurricane City had not required tenants to have insurance. The Airport Board recommends liability insurance, and he is recommending that property risk insurance be required.

Dave Houston stated that the rent is not below market rent. This is unimproved land that the owner has to develop fully. The Airport Board recommended that the tenant has the right to renew the lease at the end of the twenty-five years or move the hangar. Typically, a personal guarantee is required when money is being loaned, and the City is not loaning any money. He noted that the Airport Board recommended the personal guarantee. However, the Aviation Association has spoken against it. The lease allows the City to take the hangar, so they should not need a personal guarantee. He asked the City Council to table the item for further review.

Councilman Heideman noted that during the Airport Board meeting, comments were made that most of the ordinance came from the St. George City ordinance, which initially came from Salt Lake City. Hurricane City Airport is vastly different. He would like to table the item and rewrite the lease proposal.

Doug Heideman motioned to table amendments to the airport lease templates pending recommendations from the Airport Board. Seconded by David Hirschi. Joseph Prete, Dave Sanders, Kevin Thomas, Doug Heideman, and David Hirschi – aye. Motion carried unanimously.

Mr. Hall noted that Staff will move forward with the current approved lease until the City Council approves something different.

2. Discussion and possible **support of including Hurricane City's Frog Hollow Dam Property in an Environmental Assessment for BLM property** to be paid for by Greater Zion to assess the impact of mountain biking trail improvements at various locations.

Mayor Billings explained that Greater Zion is asking if the City supports including the City's property in the Environmental Assessment (EA) of Bureau of Land Management (BLM) property. Greater Zion is not asking for the City's property, and completion of the assessment does not obligate the City to allow the use of its property.

Justin Reeve thanked the City Council for their consideration in this matter. He is pro bike trails, but his main concern is the impacts of the dam. He reported that the number one impact of flooding is vegetation, and grading would remove all the vegetation. The Bureau of Land Management (BLM) realizes the impact, so they have suggested other areas.

Mac Hall thanked Arthur LeBaron for looking at other sites. His primary concern is the liability to the City for inviting large groups to a remote area, and he feels more appropriate areas can accommodate this.

Arthur LeBaron explained the data reviewed and the process of the environmental assessment. He noted that the assessment brings forward alternatives for analysis.

Councilman Thomas feels a large number of parked cars will damage the ground. He thinks the Council will feel pressured to allow the use of the property if it is included in the study. If there are good alternatives, they should be explored.

Jake Reber with Utah Cycling League explained that the City-owned property is a dam Retention area. Dam retentions are extremely popular for parks. He reported that two thousand cars would only be parked in the area two days a year. Washington County is willing to pay for the assessment because of the event's economic impact. This assessment does not obligate the City to allow the use of the property; it just keeps the property on the table.

Councilman Prete sees the benefit of trails and ranch lands coexisting. He has concerns about the liability this poses to the City.

Kevin Thomas motioned to deny including Hurricane City's Frog Hollow Dam Property in an Environmental Assessment. Seconded by Doug Heideman. Dave Sanders, Doug Heideman, and Kevin Thomas – aye. Joseph Prete and David Hirschi – nay. Motion carried.

Councilman Heideman commented that his previous motion directed all the parties affected by this matter to meet to discuss solutions. He feels his direction should have been adhered to.

NEW BUSINESS

- 1. Consideration and possible approval of an easement and access agreement for water and stormwater lines in the Obsidian Resort.** Agent Pro Value

Jeff Thomas explained that this easement connects the storm drain from Bash Parkway to the Marla basin and a waterline connection from Ash Road to Ash Parkway. Mayor Billings noted that this aligns the roadways within the PID. Arthur LeBaron reported that Staff recommends approval.

Dave Sanders motioned to approve the easement and access agreement for water and stormwater lines in the Obsidian Resort. Seconded by Kevin Thomas. Joseph Prete, David Hirschi, Doug Heideman, Dave Sanders, and Kevin Thomas – aye. Motion carried unanimously.

2. Public Hearing to take comments on the following:

Joseph Prete motioned to go into a Public Hearing. Seconded by Dave Sanders. Motion carried unanimously.

- a. Consideration and possible approval of a **Sensitive Lands Application located at approximately 5700 W Regional Park Dr.**

No comments

- b. A request for a **road abandonment of the southern portion of 300 North directly adjacent to 278 E 300 N.** Parcel number H-230.

No comments

David Hirschi motioned to go out of a Public Hearing. Seconded by Kevin Thomas. Motion carried unanimously.

- 3. Consideration and possible approval of a **Sensitive Lands Application located at approximately 5700 W Regional Park Dr.** Washington County Applicant. Jeff Mathis Agent

Commissioner Iverson reported that this is located at Legacy Park. They plan to build an Emergency Operations Center with training rooms and storage. Stephen Nelson reported the Planning Commission has determined that the applicant will not violate the sensitive lands and gave a positive recommendation. He noted that the drainage will be addressed during the construction drawings. Mr. Iverson asked the City Council to waive the impact fees. Councilman Prete asked what they would store in the building. Mr. Iverson explained that they store medical tents, sandbags, fillers/chutes, and other emergency tools.

David Hirschi motioned to approve the sensitive land application located at approximately 5700 W Regional Park Dr. with the addition of waiving the impact fees. Seconded by Kevin Thomas. Joseph Prete, Doug Heideman, Dave Sanders, David Hirschi, and Kevin Thomas – aye. Motion carried unanimously.

- 4. Ordinance 2023-05: Consideration and possible approval of a **Request for a Road Abandonment of the southern portion of 300 North directly adjacent to 278 E 300 N.** - Russell LeBaron

Mayor Billings explained that this was brought before the City Council in 2021 but could only proceed once the property was surveyed. She reviewed the comment in the Staff report

regarding a turnaround for fire, and Councilman Prete confirmed there is no need for connectivity from this road.

Kevin Thomas motioned to approve the road abandonment of the southern portion of 300 North directly adjacent to 278 E 300 N. Seconded by David Hirschi. Joseph Prete, Doug Heideman, Dave Sanders, Kevin Thomas, and David Hirschi – aye. Motion carried unanimously.

5. Consideration and possible approval of a Grading Permit for Bench Lake Townhomes directly adjacent to 1100 West. - Scott Stratton

Stephen Nelson reported that signatures on final construction drawings are being withheld due to a lack of power in this area. However, this will allow the applicant to move forward with aspects of the grading permit. Dayton Hall noted that approval should be subject to staff and JUC comments.

Doug Heideman motioned to approve the grading permit for Bench Lake Townhomes directly adjacent to 1100 West, subject to the engineered plans and reclamation bond. Seconded by Kevin Thomas. Joseph Prete, Dave Sanders, David Hirschi, Doug Heideman, and Kevin Thomas – aye. Motion carried unanimously.

6. Ordinance 2023-ZC-07: Consideration and possible approval of a Zone Change Amendment request located at approximately 3071 S 1100 W, from RA-0.5/PDO, residential agriculture one unit per half acre with a planned development overlay, to M-1, light industrial. Parcel numbers H-3396-D and the southern portion of H-3396-E. Diamond Edge Construction LLC Applicant. ProValue Engineering-Karl Rasmussen Agent.

Mayor Billings read the summary included in the packet. Stephen Nelson reported that the applicant can no longer meet the terms of the agreement, so Staff and the Planning Commission recommend reverting the property to half acre. Councilman Thomas favors using this property as a buffer between the gravel pit and residential housing. Councilman Prete asked if there are adequate facilities for light industrial use. Mr. Nelson explained that water use is more efficient in light industrial areas. However, the impact on power is tied to the use of the property. Councilman Prete asked if the use of the property could be restricted with a development agreement. Councilman Thomas feels the type of industrial use will be limited due to the dust from the gravel pit. Councilman Prete stated that if City Council denies the application, the area will not be developed, which will prevent the strain on utilities. Mr. Nelson explained that there is merit to the proposal. The Planning Commission feels this is more compatible with the surrounding area and a better use of the property.

Joseph Prete motioned to approve the Zone Change Amendment request located at approximately 3071 S 1100 W, from RA-0.5/PDO, residential agriculture one unit per half acre with a planned development overlay, to M-1, light industrial. Parcel numbers H-3396-D and the

southern portion of H-3396-E. Subject to Staff and JUC comments with the additional requirement that a development agreement is in place requiring the utility impact not to exceed the utility impact of the current zoning. Motion died for lack of second.

Scott Stratton noted that he and his partner are paying for the property's development of utilities and roads. Councilman Prete feels his motion is consistent with past votes while allowing Mr. Stratton to proceed. It is not good practice to give open-ended approval. Mr. Stratton explained that he can only move forward with development when power is developed to the location. Karl Rasmussen stated that there are rules and regulations that dictate what developers can do. He feels it is good planning and foresight to move forward with the zone change. He does not think a development agreement is necessary.

Kevin Thomas motioned to approve the Zone Change Amendment request located at approximately 3071 S 1100 W, from RA-0.5/PDO, residential agriculture one unit per half acre with a planned development overlay, to M-1, light industrial. Parcel numbers H-3396-D and the southern portion of H-3396-E, subject to Staff and JUC comments. Seconded by Doug Heideman. David Hirschi, Dave Sanders, Kevin Thomas, and Doug Heideman – aye. Joseph Prete – nay. Motion carried.

- 7. Consideration and possible approval of a preliminary plat for SkyRim, a mixed use development consisting of 15 single family lots, 129 townhomes, 372 apartments, and six commercial buildings, located at 3000 W State St.** Brad Brown Applicant.

Mayor Billings read the summary included in the packet, and she noted that the well must be protected. Stephen Nelson reported that the Planning Commission gave a positive recommendation on the preliminary site plan with the condition that the City Council provides input on the landscaping and design area of the well. The applicant may need to alter their traffic plan, which will be determined in the traffic study. He recommends the City Council consider the preliminary plat as a separate item and give the applicant and staff direction on the well property. Ken Richins reported that the Water Department is adamant about protecting the property around the well. He strongly discouraged the Council from encumbering the area and asked the City Council to protect the facility and protective area.

Brad Brown explained that he is here for the preliminary plat approval. They met on-site with the Staff and Mayor Billings, and he understands that the City needs to access the land around the well. This revised proposal encompasses the area with a block wall. Mr. Nelson explained that there are two approvals in multifamily development. The Planning Commission is the approval authority over the preliminary site plan. The City Council is the approving authority of the preliminary plat. The Planning Commission approved the site plan, except for the acre where the well is located. Dayton Hall explained that the critical issue is whether to approve the preliminary plat and decide whether to allow the developer to improve the well site.

Councilman Hirschi feels that a chain link fence or block wall is non-negotiable. Councilman Heideman and Councilman Prete are in favor of open green space.

David Hirschi motioned to deny the preliminary plat for SkyRim, a mixed use development consisting of 15 single family lots, 129 townhomes, 372 apartments, and six commercial buildings located at 3000 W State St.

Dayton Hall noted that preliminary plat approval is an administrative action, and the City Council cannot deny a preliminary plat unless it is noncompliant with an ordinance. Mr. Nelson reported that this application meets the amenities and open space standards.

Kevin Thomas motioned to approve the preliminary plat for SkyRim, a mixed use development consisting of 15 single family lots, 129 townhomes, 372 apartments, and six commercial buildings, located at 3000 W State St, subject to Staff and JUC comments. Seconded by Dave Sanders.

Kevin Thomas amended his motion to include that a note will be placed on the final plat stating that if the City must work on the well, the City is not responsible for rebuilding the amenities. Joseph Prete, David Hirschi, Kevin Thomas, and Dave Sanders – aye. Doug Heideman – nay. Motion carried.

Councilman Sanders paused the meeting to read a text from Police Chief Excell regarding a vehicle-pedestrian crash on 180 North 3700 West. The victim is a four-year-old child with life-threatening injuries.

8. Consideration and possible decision regarding locking the Equestrian Park gate.

Mayor Billings read the summary provided in the packet. She noted that the item was added to the agenda by Councilman Thomas, Councilman Hirschi, and Councilman Heideman. Mayor Billings and the City Council reviewed the location of the gate listed on the map.

Kelby Iverson explained there has always been vehicular access through Frog Hollow. He read his family's statement. He reported that the property is for sale. However, they are only willing to sell the property at market value with additional amenities. He feels purchasing his family's property at market value with additional amenities will cost less than developing a road along the BLM property. Mayor Billings explained that tax revenue is used to purchase property, and the City cannot pay more than market value.

David Hirschi motioned to open the gate and to begin negotiations with property owners for the roadway. Seconded by Doug Heideman. Kevin Thomas, Dave Sanders, David Hirschi, and Doug Heidemen – aye. Joseph Prete – nay. Motion carried.

9. Closed Meeting held pursuant to Utah Code section 52-4-205, upon request.

Joseph Prete motioned to go into a closed meeting to discuss purchasing real property. Seconded by David Hirschi. Motion carried unanimously.

Kaden DeMille reported that the County offered a tour of the election facility on Wednesday.

Adjournment: 11:00 p.m.